

1893-022 Chancery Causes: R. D. Flanary & wife vs. Crab Orchard Coal & Iron Co.]
Lee Co.

CA-Debt
T-Property

To the ^{Hon} H. S. K. Morrison, Judge of the
Circuit Court of Lee County.

Humbly Complaining your
orator R. D. Flanary and ^{oratrix} Mary Flanary
would respectfully represent unto your
Honor that on or about the 13th day of
October, 1890, they sold to the Crab
Orchard Coal and Iron Company, a
corporation existing under the Laws
of the State of Virginia, their un-
divided interest in a certain tract
or parcel of land lying and being
in Lee County Virginia, in the Crab
Orchard country, and on the waters
of Red's creek, for the sum of \$270⁰⁰/₁₀₀.
That said company at the time
it purchased said interest in said
land it paid down the sum of
\$135⁰⁰/₁₀₀, and made, executed and
delivered its note for \$135⁰⁰/₁₀₀, pay-
able twelve months after the 13th
day of October, 1890, which note
is here filed marked "A" and
prayed to be considered as a
part of this bill.

Your Oratornd and Oratrix will
further show unto your Honor that
at the time they sold said interest
in said land to said company
they made, executed and delivered
their deed thereto, reserving therein
their vendor's lien on said interest
in said land until said deferred
payment due as aforesaid should

be fully paid; that said deferred
payment which became due Oct.
13th, 1891, ^{not any part thereof} has not been paid to your
orator and oratrix, nor to either of
them, and that the same and every
part thereof with its interest since
it became due is now owing, due
and payable to your orator and
oratrix.

Your Complainants will again
show unto your Honor that the
interest which they sold to said
defendant was a one-ninth
undivided interest in the real
estate of which Elijah Pennington
deceased owned at the time of
his death, and a like interest
in the real estate which the said
Elijah in his life time had
conveyed to his wife for life:
Your female complainant being
a daughter and heir at Law of
the said Elijah. See exhibit "B" filed.

Now your complainants are ad-
vised that the lien retained as afore-
said in said deed on said un-
divided interest on said land
is capable of being enforced only
in a court of equity and that
your Honor will take cognizance
of their said cause. Hence their
prayer is that the Crab Orchard
Coal and Iron Company be
made a party defendant to this bill;

That it be required to answer the
several allegations thereof; That
a decree be pronounced therein
giving them judgment for said
sum of money with interest thereon
from the time it became due;
and if the same be not paid
within a reasonable time thereafter
that a commissioner be appointed
for the purpose of selling said interest
in said land, or so much thereof
as may be necessary to pay the
debt due thereon as aforesaid,
And that all such other, further
and general relief be granted
your complainants as good conscience
and the nature of their cause may
demand. May process issue &c.
And they will ever pray and &c.
Pennington & Gouws,

P. G.

D 13.00
 S 57
 A 15.00
 Estimate 5.00
\$34.05

R. D. Thomas & wife
 vs Bill in Chancery

Crab Orchard Coal
 & Iron Company.
 Note enclosed.

1892 1st March Rule 31
 Filed 2nd March
 2nd March Rules Court
 1st March Rules Court
 1st March

2nd March D. K. Giff
 Cause set for hearing
 by Plaintiff
 June Decree Court
 & continued
 Nov. no court

1893 Mn. Decree & Court
 June Decree final
003 498

Dr & sub \$142.43
 Costs 34.05
 Com 8.82
\$185.30

Bid off by H. H.
 at \$185.30
 Sept. 19, 1892
 A. M. Giff
 Clerk

18135

City of Bristol, Va., *Octo 13*, 189*0*

Office of the Crab Orchard Coal and Iron Co.,

Twelve Months after date the "Crab Orchard Coal and Iron Company," promise to pay *R. D. Flannery & Mary*

Flannery his wife
the sum of *One Hundred & Thirty-five* Dollars,

with six per cent interest after maturity, at the Company's Office in the city of Bristol, Virginia it being the *Last* payment on land this day sold and conveyed to said Company, and for value received. In witness whereof the Crab Orchard Coal & Iron Company has caused these presents to be signed by *W. W. James, the Secretary and General Manager of said Company, and the said W. W. James has hereunto set his hand and seal the day and year first above written.*

The Crab Orchard Coal and Iron Company,

By *W. W. James* (SEAL.)
Secretary and General Manager.

"2"

R. D. Flanary & wife, - - - Compls
vs. In Chancery.

Crab Orchard Coal & Iron Co., Deflt.

This Cause came on again this day to be heard upon the papers formerly read therein and the report of A. M. Gains, who was on yesterday appointed a Commr. for the purpose of making to the purchasers of the land in the bill & proceedings mentioned a deed; on consideration of all which, and for reasons appearing to the Court and there being filed with said report a deed made to W. H. James, M. M. Butler, B. L. Dulaney, J. S. Anderson, W. A. Sparger, Chas. L. James, and B. J. James by A. M. Gains to said land and no exceptions being taken to said report and deed, it is adjudged, ordered, and decreed that said report and deed be and are hereby confirmed, and that said grantees in said deed pay to said Gains for his services as such Commissioner the sum of Five dollars, and after the payment of the same said grantees may withdraw from the files of this Cause said deed, and this Cause is stricken from the docket.

R. D. Flannery & wife

vs { Decree ^{M.} Final

Crab O. Co. & Iron Co.

Entered on O.V.B.

Page 498.

June 9, 1893

J. A. & Hyatt & Co.

Enter this Decree

June 9, 1893

H. S. K. M.

R. L. Flannery & wife

vs.

Crab Orchard Coal & Iron Co.

} In Chanc.

This Cause came on again to be heard upon the papers formerly read therein and the report of Court. R. M. Goins showing the collection and proper disbursement of the funds coming to his hands as special Court. for the sale of the land in the bill and proceedings mentioned, On consideration of all which, it is adjudged, ordered and decreed that said report and disbursements be and are hereby confirmed. And said Goins who is hereby appointed a special Court. for the purpose, will make and execute to the purchaser of the land in the bill and proceedings a deed for the same with covenants of Special warranty. And he will report his action to this Court at a future day of the present term, ~~until the coming in there~~

R. D. Flanary & wife

ss. } Decree

Crab Orchard C. & D. Co.

Entered chy O. B.

page 486 -

June 8th / 1893

J. A. Hyatt

Enter this Decree

this June 8 / 1893.

H. H. Kline

R. D. Flanagan & wife Complainants
vs
The Crab Orchard Coal & Iron Co. } In Chanc.

This cause came on again to be heard upon the papers formerly read therein, and the report of Court. R. M. Gouss of the sale of the land in the last proceedings mentioned filed herein on October 13th 1892; and said report having been filed for more than ten days before the first day of this term of the Court, and is unexcepted to, it is adjudged ordered and decreed that said report & sale be and is hereby confirmed. And this cause is continued.

A. D. Flannery & wife

vs } Deceit no 2

Crab Orchard Court
and Iron Co

Entered May 08
page 438. March
8th 1893.
J. A. Hyatt

Enter this

March 8 1893.

H. S. K. M.

R. D. Flanary et al.

Complt.

vs. In Chancery.

Crab Orchard Coal & Iron Co.

Def.

This cause came on this day to be heard upon the Bill of complaint and exhibits filed therewith, and it appearing that process has been duly served on said defendants for more than 15 days before the first day of the term of the court, and it failing to appear and plead or answer on motion of the Complainant, the court doth take his bill for confessed.

On consideration of all which and for reasons appearing to the court, it is adjudged, ordered and decreed that R. D. Flanary and Mary Flanary do recover from the defendant the sum of \$135⁰⁰/₁₀₀, with legal interest thereon from the 13th day of Oct. 1891, until paid and the costs of this suit. And it is further adjudged, ordered and decreed that unless said defendant pay said sum of money, its interest and the costs of this suit in 30 days from the rising of this court, then A. M. Goins, who is hereby appointed a special commissioner for the purpose will proceed to sell the land in the bill and proceedings mentioned, or so much thereof as may be necessary to pay the said debt, its interest and the costs of this suit, on a credit of six months, except a sum sufficient to pay the costs, which he

will require to be paid down, and for
said deferred payment he will take bond
payable to himself with good personal secur-
ity. He will make said sale at the front-
door of the court-house of Lee County on
some court day at public outcry and to the
highest bidder. Before proceeding to make
said sale he will advertise the time, terms
and place of sale for 30 days by notices pos-
ted at the front door of the court-house of this
county, in the neighborhood of said land,
and at such other places as he may
think necessary. But before proceeding to
execute the terms of this decree he will ex-
ecute bond before the clerk of this court
in the penalty of \$500 ⁰⁰/₁₀₀, conditioned as
the law requires in such cases. And
this cause is continued.

R. D. F. Lanary & al.

vs. Decree No. 1.

Leah Orchard Land

& Iron Company.

Entered May 20th

pages 404-5-6

Jan June 9th 1892

Joseph H. H. H.

Enter this.

H. H. H. H.

June 9th 1892

R. L. Flanary & wife, - - - Compts
vs. { In Chancery.

Crab Orchard Coal & Iron Co., Deft.

To the Hon. H. S. K. Morison, Judge
of the Circuit Court for Lee County, Va. -

Your undersigned Special Commissioner begs leave to report, that, after duly advertising the time, terms, and place of sale, as was required by the decree entered in this cause at the June term, 1892, of your honor's court, he offered for sale the land in the bill and proceedings mentioned, at public out-cry, at the front door of the Court-house, on Monday Sept. 19th, 1892, that being a court day, to the highest bidder, on a credit of six months, except a sufficient sum to pay the commissions of sale and the costs of this suit, which sum was required to be paid in hand. After much crying said land was knocked off to W. H. James, M. M. Butler, B. L. Dulaney, J. S. Anderson, W. A. Sparger, Chas. L. James and B. J. James for the sum of \$185⁰⁰/₁₀₀.

this being their bid and the highest offered. As required by the terms of said decree said purchasers paid your Commissioner in hand \$42.87, the amount necessary to cover the commissions of sale and the costs of this suit.

Your Comr. further reports that for the deferred payment of this sale said W. W. James, M. M. Butler, B. L. Dulaney, J. S. Anderson, W. A. Sparger, Chas. L. James, and B. J. James executed to him their joint note for \$142.45, payable six months after date, and bearing interest from the date of sale.

Your Comr. will again report that the commissions arising from this sale and the costs of this suit have been paid, as may be seen from the receipts herewith filed.

All of which is respectfully submitted.

A. M. Goins,
Special Comr.

R. D. Flanagan & wife

vs

Orab Orchard Coal & Iron Co.

\$18.55 Received of A. M. Goins Comr.
in above styled Cause Eighteen
Dollars & 55-cents my fees in
said Cause, Sept 20th.
1892. J. H. Hyatt C.

\$15⁵⁰/₁₀₀

Received from A. M. Goins, Comr.
in above styled cause, Fifteen ⁵⁰/₁₀₀ dol-
lars, our fee as attorneys in this
cause and amount paid
sergeant city of Bristol for
executing process.

This Sept 20th - 1892

Purmon & Goins,
Atlys.

\$8⁸²/₁₀₀

= Retained eight dollars & eighty-two
cents the commissions of sale in
the above styled cause.

This Sept 20, 1892.

A. M. Goins,
Comr.

R. D. Flanagan & wife

vs. Comis Report.

Crab Orchard Coal
& Iron Company.

Filed Oct. 13 1892
J. A. Hyatt

R. D. Flanary + wife, - - Compls.
vs. In Chancery.

Crab Orchard Coal + Iron Co., - - Defs.

The undersigned here reports that at the June term, 1892, of your honor's court he was appointed a Special Comr. for the purpose of selling the land in the bill and proceedings mentioned in this cause; that at the September term, 1892, he sold said land to the parties, on the terms, and in the manner reported by the undersigned in his former report, filed in this cause on the 13th day of Oct., 1892. The undersigned now here further reports that the deferred payment of said purchase money for which said purchasers executed their bond for the sum of \$142.45, payable six months after date, and bearing interest from the date of sale, has been fully paid to him by said purchasers.

The undersigned also here further reports that after receiving said \$142.45 and interest, as above stated, that he paid the same over to E. M. Pennington, Atty. for said Complainants and took his receipt for the same, which receipt is herewith filed, marked "A", as a part of this report. All of which is respectfully submitted, This May 20th 1893. A. M. Gouis,
Special Comr.

(over)

"A"

Rec'd of A. M. Lains Comr. in the
Chancery cause of R. D. Flannery &
wife vs. the Crab-Orchard Coal & Iron
Co. Check of W. W. James for One
hundred & forty-eight & 69/100 - dollars.
This 'may 13th 1893.

E. W. Pennington atty
for Flannerys.

R. D. Flanary + wife

vs. } Comis Report L.

Crab Orchard L. + I. Co.

Filed this May 20, '93.

J. A. Hyatt C

R. D. Flanary + wife, — — Compts.
vs In Chancery

The Crab Orchard Coal + Iron Co., Defs.

To the Hon. H. S. K. Morrison, Judge
of the Circuit Court of Lee County, Va.

The undersigned Special Comr.
begs leave to report, that, in pursu-
ance to a decree entered in the above
styled cause on the 8th day of June,
1893, appointing him a special
Comr. for the purpose of making
and executing to the purchaser
of the land in the bill and proceed-
ings mentioned in this cause a
deed with covenants of special
warranty, he has complied with
the order of the court and has
made said deed as directed by
said order, and the same is filed
herewith marked "D."

All of which is respectfully sub-
mitted, this June 9th 1893,

A. M. Gorins,
Special Comr.

R. D. Flannery & wife

vs } Comr's Report of
Ded

Crab Orchard Coal & I.
Company.

M.
Filed June 9th, 1893,
J. L. Hyatt

KNOW ALL MEN BY THESE PRESENTS, That we

A. M. Gains
and J. A. Hyatt
are held and firmly bound unto the Commonwealth of Virginia, in the sum of *Five*
Hundred dollars, to the payment whereof, well and truly

to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our
and each of our heirs, executors and administrators, jointly and severally, firmly by these
presents, hereby waiving the benefit of our homestead exemptions as to this obligation,
and any claim, right, or privilege to discharge any liability arising under this bond, or by
virtue of said office or trust, in any currency, funds, counter claims or offsets other than
legal-tender currency of United States. Sealed with our seals, and dated *19th* day
of *July*, one thousand eight hundred and *Twenty two*

The Condition of The Above Obligation is Such, That if the above bound
A. M. Gains
shall faithfully perform the duties of *his* office or trust, as *Commiss-*
sioner
under a decree of the Circuit Court of the County of Lee, pronounced on the *9th*
day of *June*, 1892, in the suit therein depending
under the name and style of *R. D. Selman et al* Plaintiff
vs. *Orab. Orchard Coal Co.* Defendant

and properly account for all sums of money *he* may receive as
such *Commissioner*

then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and acknowledged in the
presence of

A. M. Gains (SEAL.)
J. A. Hyatt (SEAL.)
(SEAL.)

In the Clerk's Office of the Circuit Court of the County of Lee

This day
suret on the above bond, made oath before me J. A. G. Hyatt, Clerk of the Circuit
Court of the County of Lee, that
estate after the payment of all just debts, and those
for which bound as securit for others, and expect to have
to pay worth the sum of
dollars.

Given under my hand this day of 18

Teste: Clerk.

R. D. Flanagan
per ^{Wm} Bond
Crab Orchard Cal. & Co
Filed July 19/89
J. A. Hyatt

The Commonwealth of Virginia,

Sergeant of Bristol Virginia
To The Sheriff of Lee County Greeting:

We Command You to Summon

The Crab Orchard
Coal and Iron Company
a Corporation organized and
Existing under the laws of Virginia

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday
in *March* next, being rule day to answer a bill in Chancery exhibited in our said Court
against *it* by *R. D. Flannery*

and Mary Flannery

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.
This *5th* day of *Febr.* 18*93*, in the 11*th* year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste

(E.W.P)

R. D. Flanagan et al
vs
The Crab Orchard Coal
& Iron Co.
To 1st March Rules 1892

Entered by deliver-
ing an office
copy of the within
summons to W. W.
James, Treasurer and
General Manager
of the Crab Orchard
Coal & Iron Compa-
ny, on this the
11th day of February
1892 in the
County of Bristol
the said James

Sergeant
of Said City

Executed on the 11th day of February, 1892 on the
Crab Orchard Coal & Iron Company -
Confederation organized & existing under the
laws of Va., by returning an office copy of
the within summons to W. W. James Secretary
& General Manager of said Company in the
County of Bristol Va. the said James
residing therein. It is the 12th day of February 1892
W. G. Dot
Sergeant of said County